

BEFORE THE COMMISSION FOR COMMON-INTEREST
COMMUNITIES AND CONDOMINIUM HOTELS
STATE OF NEVADA

JOSEPH (J.D.) DECKER, Administrator,
REAL ESTATE DIVISION, DEPARTMENT
OF BUSINESS & INDUSTRY,
STATE OF NEVADA,

Petitioner,

vs.

LESLIE WHITE,

Respondent.

Case No. 2014-1505

FILED

JAN 30 2015

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIES
AND CONDOMINIUM HOTELS

COMPLAINT FOR DISCIPLINARY
ACTION AND NOTICE OF HEARING

The Real Estate Division of the Department of Business and Industry, State of Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Michelle D. Briggs, Esq., Senior Deputy Attorney General, hereby notifies Respondent Leslie White ("RESPONDENT" or "WHITE") of an administrative hearing before the Commission for Common-Interest Communities and Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapter 116 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to consider the allegations stated below and to determine if an administrative penalty will be imposed on the RESPONDENT pursuant to the provisions of NRS and NAC including, but not limited to, NAC 116A.360.

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JURISDICTION

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2 1. During all relevant times mentioned in this complaint, WHITE was licensed as a
3 community manager by the Division and is, therefore, subject to the jurisdiction of the
4 Division and the provisions of NRS Chapters 116 and 116A and NAC Chapters 116 and
5 116A.

ALLEGATIONS OF FACT

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7 2. At all relevant times mentioned in this complaint, WHITE was and is currently
8 licensed as a supervisory community manager under certificate number CAM.0000070.

9 3. At all relevant times mentioned in this complaint, WHITE acted as and is
10 currently performing the services of a community manager for Willow Trace Association (the
11 "Association") through her entity NCF Corporation, doing business as Associated Community
12 Management (the "Management Company").

13 4. The Division opened an investigation against WHITE and her daughter, Audra
14 Collins, in 2013 under Case No. CIS 13-05-34-340 based on information contained in annual
15 registration forms supplied by WHITE and Ms. Collins to the Division.

16 5. The initial investigation concerned 21 associations managed by WHITE.

17 6. The initial investigation concerned whether the associations had board
18 members.

19 7. By letter dated June 7, 2013, the Division sent WHITE a letter detailing the
20 alleged violations and requested documents and a sworn affidavit as to the alleged violations.

21 8. As to the Association, WHITE responded with a sworn statement dated June
22 21, 2013 stating that the Association had struggled to keep a full board, but did have a board
23 at that time. She stated meetings "have been held as schedules and directors were able."

24 9. WHITE did not provide a copy of her management contract as requested.

25 10. By letter dated December 30, 2013, the Division sent WHITE a second request
26 for her management contract.

27 11. Despite the request for the management contract within 12 business days,
28 WHITE did not respond to the second request.

1 12. The Division subpoenaed bank records for the Association in January of 2014.

2 13. Based on a review of the records, the Division opened a new case concerning
3 only the Association under Case No. 2014-1505.

4 14. WHITE was noticed of the new case by letter dated May 6, 2014 which alleged
5 WHITE was the sole signor on Association checks. The letter requested copies of WHITE'S
6 three most recent management contracts, minutes from the last three elections for the board,
7 and copies of Association CC&R's and bylaws.

8 15. WHITE responded by email dated June 6, 2014, which included as
9 attachments, her sworn affidavit dated June 6, 2014, certain election documents, her
10 management contract dated November 13, 2012, and her management contract dated
11 August 10, 2005.

12 16. WHITE'S explanation for the single signed checks was an electronic signature
13 error, but WHITE provided no evidence that any board member approved any of the sole
14 signed checks.

15 17. According to the Association's bank, Mutual of Omaha Bank, all of WHITE'S
16 associations use a master signature card for the management company that goes with all of
17 their accounts.

18 18. The master signature card is for the Management Company and shows WHITE
19 as the only authorized signor.

20 19. The Association's most recent annual registration form submitted to the Division
21 was signed by WHITE and dated February 20, 2014.

22 20. WHITE lists three board members and officers on the annual registration form.

23 21. The Division requested a sworn affidavit from the three purported board
24 members.

25 22. Each of the board members were elected in 2013 and each of them say no
26 board meetings were ever held and they were unaware they held any officer positions.

27 23. WHITE supplied a management agreement from 2012 purportedly signed by
28 board member Janet Deaver who informed the Division she was elected in February 2013.

25. The Division requested WHITE'S response to the allegation that she provided a forged management contract to the Division.

26. In response, WHITE provided a third management contract dated August 10, 2005 with a provision that the contract is for a 1 year term, but that it renews on a month to month basis unless otherwise terminated.

27. The prior management contract dated August 10, 2005 WHITE provided to the Division was for a one year term with a one year renewal term which expired in 2007. WHITE did not explain why she had two contracts dated August 10, 2005, but stated that she provided the November 2012 contract to the Division in error.

28. The Division reviewed checks for the Association from January 2010 through December 2013. Nearly all the checks contain only one signature.

29. Ms. Deaver stated in her affidavit to the Division that she was asked to sign only a few checks since she was elected in February 2013 including two checks payable to the Division.

30. WHITE was the sole signor on over 100 Association checks from 2010 through 2013.

31. Approximately 146 Association checks were written to the Management Company totaling over \$68,000.

VIOLATIONS OF LAW

32. WHITE violated NRS 116A.640(2)(a) and NAC 116A.345(2)(a) by impeding the Division's investigation by failing to comply with requests from the Division to provide documents.

33. WHITE violated NRS 116A.640(2)(b) and NAC 116A.345(2)(b) by impeding the Division's investigation by supplying false and misleading information to the Division's investigator.

34. WHITE violated NRS 116A.640(2)(c) and NAC 116A.345(2)(c) by impeding the

1 Division's investigation by concealing facts and documents relating to the business of the
2 Association.

3 35. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
4 by engaging in deceitful, fraudulent or dishonest conduct.

5 36. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
6 when she failed to cooperate with the Division's investigation by failing to timely produce
7 documents and records of the Association.

8 37. WHITE violated NAC 116A.355(1)(a)(1) by committing unprofessional conduct
9 by exceeding the authority granted to her by the Association.

10 38. WHITE violated NAC 116A.355(1)(a)(2) by engaging in conduct constituting
11 professional incompetence by demonstrating a significant lack of ability, knowledge or fitness
12 to perform a duty or obligation owed to the Association.

13 39. WHITE violated NAC 116A.355(1)(a)(2) by engaging in conduct constituting
14 professional incompetence by failing to exercise reasonable skill and care with respect to a
15 duty or obligation owed to the Association.

16 40. WHITE violated NRS 116.31153 over 100 times by being the sole signor on
17 more than 100 Association checks between January 2010 and January 2014.

18 41. WHITE violated NRS 116A.620 and NAC 116A.325 by failing to have a valid
19 management contract with the Association from at least July 2007 to the present date.

20 42. WHITE violated NRS 116A.630(1)(a) by failing to act as a fiduciary in her
21 relationship with the Association.

22 43. WHITE violated NRS 116A.630(1)(b) by failing to exercise ordinary and
23 reasonable care in the performance of her duties for the Association.

24 44. WHITE violated NRS 116A.630(2) by failing to comply with all federal, state and
25 local laws, regulations and ordinances.

26 45. WHITE violated NRS 116A.630(6)(a) by failing to ensure that the financial
27 transactions of the Association are current, accurate and properly documented.

28 46. WHITE violated NRS 116A.630(6)(b) by failing to ensure that there are policies

1 and procedures designed to provide reasonable assurances in the reliability of the financial
2 reporting.

3 47. WHITE violated NRS 116A.630(7) by failing to prepare or cause to be prepared
4 interim and annual financial statements to allow the Division, the unit owner and board
5 members to determine whether the financial position of the Association is fairly presented in
6 accordance with all applicable laws and regulations.

7 48. WHITE violated NRS 116A.630(10) by failing to cooperate with the Division.

8 49. WHITE violated NRS 116A.630(13) by failing to maintain the Association's
9 funds in separate financial accounts in the name of the Association and ensure that the
10 Association is authorized to have direct access to those accounts.

11 50. WHITE violated NRS 116A.630(14) by failing to notify unit owners that the
12 board is aware of all legal requirements pursuant to the applicable laws and regulations.

13 51. WHITE violated NRS 116A.630(15) by failing to maintain internal accounting
14 controls, including without limitation, segregation of incompatible accounting functions.

15 52. WHITE violated NRS 116A.630(16) by failing to ensure that the executive board
16 developed and approved written investment policies and procedures.

17 53. WHITE violated NRS 116A.630(18) by failing to take direction from the
18 Association.

19 54. WHITE violated NAC 116A.320 by failing to comply with NRS 116A.630.

20 **DISCIPLINE AUTHORIZED**

21 Pursuant to the provisions of NAC 116A.360 the Commission has discretion to impose
22 discipline as it deems appropriate, including, but not limited to one or more of the following
23 actions:

- 24 1. Revoke or suspend the certificate;
- 25 2. Refuse to renew or reinstate the certificate;
- 26 3. Place the community manager on probation;
- 27 4. Issue a reprimand or censure to the community manager;
- 28 5. Impose a fine of not more than \$5,000 for each violation of a statute or

1 regulation;

2 6. Require the community manager to pay restitution;

3 7. Require the community manager to pay the costs of the investigation and
4 hearing;

5 8. Require the community manager to obtain additional education relating to the
6 management of common-interest communities; and

7 9. Take such other disciplinary action as the Commission deems appropriate.

8 The Commission may order one or any combination of the discipline described above.

9 **NOTICE OF HEARING**

10 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider this
11 Administrative Complaint against the above-named RESPONDENT in accordance with
12 Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116 and
13 116A of the Nevada Administrative Code.

14 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for **March**
15 **3, 4, and 5, 2015, beginning at approximately 9:00 a.m. each day, until such time as the**
16 **Commission concludes its business. The Commission meeting will be held at the**
17 **Gaming Control Meeting Room located at the Grant Sawyer Building, 555 E.**
18 **Washington Ave., Room 2450, Las Vegas, Nevada 89101, with videoconferencing to**
19 **the Gaming Control Meeting Room, 1919 College Parkway, Carson City, Nevada 89706.**

20 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
21 scheduled at the same time as part of a regular meeting of the Commission that is expected
22 to take place on March 3-5, 2015. Thus, your hearing may be continued until later in the day
23 or from day to day. It is your responsibility to be present when your case is called. If you are
24 not present when your hearing is called, a default may be entered against you and the
25 Commission may decide the case as if all allegations in the complaint were true. If you need
26 to negotiate a more specific time for your hearing in advance because of coordination with
27 out of state witnesses or the like, please call Claudia Rosolen, Commission Coordinator, at
28 (702) 486-4606.

1 YOUR RIGHTS AT THE HEARING: Except as mentioned below, the hearing is an
2 open meeting under Nevada's open meeting law, and may be attended by the public. After
3 the evidence and arguments, the commission may conduct a closed meeting to discuss your
4 alleged misconduct or professional competence. A verbatim record will be made by a
5 certified court reporter. You are entitled to a copy of the transcript of the open and closed
6 portions of the meeting, although you must pay for the transcription.

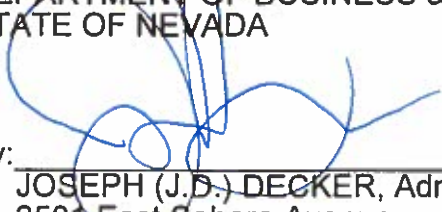
7 As a RESPONDENT, you are specifically informed that you have the right to appear
8 and be heard in your defense, either personally or through your counsel of choice. At the
9 hearing, the Division has the burden of proving the allegations in the complaint and will call
10 witnesses and present evidence against you. You have the right to respond and to present
11 relevant evidence and argument on all issues involved. You have the right to call and
12 examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter
13 relevant to the issues involved.

14 You have the right to request that the Commission issue subpoenas to compel
15 witnesses to testify and/or evidence to be offered on your behalf. In making this request, you
16 may be required to demonstrate the relevance of the witness' testimony and/or evidence.
17 Other important rights and obligations, including your obligation to answer the complaint, you
18 have are listed in NAC 116A.560 through NAC 116A.655, NRS Chapter 233B, and NRS
19 Chapters 116 and 116A and NAC 116 and 116A.

20 Note that under NAC 116A.585, not less than five (5) working days before a hearing,
21 RESPONDENT must provide to the Division a copy of all reasonably available documents
22 that are reasonably anticipated to be used to support his or her position, and a list of
23 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide any
24 document or to list a witness may result in the document or witness being excluded from
25 Respondent's defense. The purpose of the hearing is to determine if the RESPONDENT has
26 violated any of the provisions of NRS and NAC Chapters 116 and 116A, and to determine
27 what administrative penalty is to be assessed against RESPONDENT, if any, pursuant to
28 NAC 116A.360.

1 DATED this 29th day of January, 2015.

2 REAL ESTATE DIVISION
3 DEPARTMENT OF BUSINESS & INDUSTRY
4 STATE OF NEVADA

5 By: 
6 JOSEPH (J.D.) DECKER, Administrator
7 2501 East Sahara Avenue
8 Las Vegas, Nevada 89104-4137
9 (702) 486-4033

10 ADAM PAUL LAXALT
11 Attorney General

12 By: 
13 MICHELLE D. BRIGGS, ESQ.
14 Senior Deputy Attorney General
15 2501 E. Sahara Avenue, Suite 201
16 Las Vegas, NV 89104
17 (702) 486-7041
18 Attorneys for Real Estate Division
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21
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